

BEFORE TELANGANA REAL ESTATE REGULATORY AUTHORITY
[Under the Real Estate (Regulation and Development) Act, 2016]
Complaint No. 73 of 2025

Dated: 04th May 2026

Quorum: **Dr. N. Satyanarayana, IAS (Retd.), Hon'ble Chairperson**
 Sri K. Srinivasa Rao, Hon'ble Member
 Sri Laxmi Narayana Jannu, Hon'ble Member

1. *Mrs. Anuradha Konapala W/o.Mr. Santha Rao Jilnaga*
2. *Mr. Santha Rao Jinaga, S/o. Mr. Appa Rao,*
(Both R/o. Flat No.S1, Brindavan Residency,
M.J Colony, Street No-2, Moulali, Secunderabad-500040.)

...Complainants

Versus

M/S Aditya Construction Company Private Limited

Represented by Executive Director: Mr Thota Satyanarayana,

(R/o Aditya Mansion, Plot No.29/A, Road No.5, Jubilee Hills, Hyderabad - 33.)

...Respondent

The present matter filed by the Complainants herein came up for hearing before this Authority in the presence of the Complainant in person, and the learned Counsel M/s P.V. Aruna Kumari and others appearing for the Respondent. Upon hearing the submissions of all the parties, this Authority proceeds to pass the following **ORDER**:

2. The present Complaint has been filed by the Complainants under Section 31 of the Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act") read with Rule 34(1) of the Telangana Real Estate (Regulation and Development) Rules, 2017 (hereinafter referred to as the "Rules") seeking appropriate relief(s) against the Respondents.

A. Brief facts of the case:

3. The Complainants submits that they are well acquainted with the facts and circumstances of the present case.

4. The Complainants submits that the Respondent is a construction company having a significant presence in Hyderabad. The Complainants state that they have come across an advertisement by the Respondent in respect of one of its residential projects, known as "Aditya Capitol Heights", situated at Hafeezpet, Serilingampally, Ranga Reddy District. Upon noticing the said advertisement, the Complainant visited the office of the Respondent,

where the representatives of the Respondent, including the CEO and CRM, allegedly induced the Complainants to purchase a flat in the said project by highlighting several attractive features such as competitive pricing, modern amenities, quality construction, assured delivery timelines, and particularly a Pre-EMI Scheme to be applicable until the stage of “Intimation of Flat Completion”.

5. The Complainants further submits that under the said Pre-EMI Scheme, the Respondent had assured that they would pay the Pre-EMI Payments (interest part in the EMI payments) till the period of completion of the flat. Relying upon the representations and assurances made by the Respondent, the Complainants agreed to purchase a flat in the said project and accordingly booked Flat No. 906, situated on the 9th Floor, admeasuring 1610 Sq. Ft., in A-Block (hereinafter referred to as the “subject flat”), for a total sale consideration of Rs. 76,03,500/- (Rupees Seventy-Six Lakhs Three Thousand Five Hundred Only).

6. The Respondent issued a Flat Booking Letter dated 16.01.2017 under the Pre-EMI Scheme (acknowledging receipt of an amount of Rs. 1,00,000/- (Rupees One Lakh Only) towards token advance. The Respondent had agreed that the balance amount of Rs. 6,60,000/- (Rupees Six Lakhs Sixty Thousand Only), constituting 10% of the booking advance, would be paid prior to execution of the Agreement of Sale. In accordance with the said understanding, the Complainants paid the said balance amount through bank transfer and cheques dated 04.03.2017 and 30.06.2017. Thereafter, the parties executed the Agreement of Sale dated 25.04.2017.

7. Further, the Complainants submits that they have opted to purchase the subject flat under the Pre-EMI Scheme and obtained a housing loan from PNB Housing Finance Limited, which sanctioned a loan amount of Rs. 65,00,000/- (Rupees Sixty-Five Lakhs Only), constituting approximately 85% of the flat cost. On 25.04.2017, a Tripartite Agreement was also executed between the Complainants, the Respondent, and the said financial institution.

8. It is further submitted that a sum of Rs. 38,02,335/-, which is nearly 50% of the total project cost, was paid against a work progress stated to be only about 30%. The said amount comprises Rs. 7,60,000/- towards booking advance and Rs. 30,42,335/- disbursed by the Complainant’s banker on 26.04.2017. The Complainants contends that, as per Clause-6 of the Agreement of Sale, the purchaser is required to make payments strictly in accordance with the stage-wise progress of construction. However, the Respondent allegedly collected an excess amount of approximately Rs. 15,20,000/-, which is stated to

be about 20% more than the proportionate construction progress, thereby entitling the Complainants to interest on the excess amount collected.

9. The Complainants further submits that, till date, an amount of Rs. 50,70,000/- has been disbursed by the bank in addition to the booking advance paid by the Complainants.

The details of payments made towards the subject flat are as follows:

- a. Advance booking payment of Rs.7,60,000 cash/cheque before agreement of sale.
- b. Bank disbursement as initial loan amount disbursement of Rs.30,42,335 on 26.4.17.
- c. Bank disbursement of Rs. 7,97,375 on 9.7.2018.
- d. Bank disbursement of Rs. 7,10,000 on 17.3.2020
- e. Bank disbursement of Rs.5,20,290 on 26/8/2022 and
- f. Rs. 1,10,000 as service tax during 2017 by the Complainants

10. The Complainants submits that a total amount of Rs. 59,40,000/-, which is totalling to approx 78%, was paid by the Complainants and their banker to the Respondent towards the sale consideration of the Subject Flat of Rs. 76,03,000, and an interest to be paid on the above deposited amount to the Complainants since the project has been inordinately delayed for more than seven years from the date of the Agreement of Sale

11. The Complainants further submit that, as per Clauses 9 and 10 of the Agreement of Sale, all statutory charges, maintenance charges, service tax and corpus fund were required to be paid prior to the registration of the flat. However, the Respondent allegedly issued a letter dated 27.05.2017, i.e., within one month from the date of execution of the Agreement of Sale, demanding payment of Rs. 1,69,413/- towards service charges. The Complainants contends that such a demand at an early stage of the project amounts to an unfair trade practice on the part of the Respondent. It is further submitted that due to the short notice, the Complainants approached the representatives of the Respondent, including the CEO and Customer Relations Manager (CRM), requesting permission to pay the said amount in instalments. Accordingly, the Complainants paid Rs. 1,10,000/- in two instalments of Rs. 50,000/- and Rs. 60,000/-, and requested the Respondent to adjust the remaining amount against the Pre-EMI dues allegedly payable by the Respondent.

12. The Complainants further submits that, as per para/Clause-5 of the Agreement of Sale, the Respondent had undertaken to bear the Pre-EMI payments under the Pre-EMI Scheme. It is stated that the Respondent paid Pre-EMIs for a period of about nine months, amounting to Rs.1,99,000/- (Rupees One Lakh Ninety-Nine Thousand Only) for the period from 01.05.2017 to 17.02.2018. Thereafter, the Respondent allegedly discontinued payment of further Pre-EMIs citing technical reasons for delay. Subsequently, the Respondent issued an email dated 20.12.2019 stating that the Pre-EMI scheme was

discontinued due to alleged delayed payments on the part of the Complainants and his banker. The Complainants disputes the said allegation and contends that the Respondent had already received nearly 50% of the project cost against only about 30% of the construction progress at the time of execution of the Agreement of Sale.

13. It is further contended that the Respondent had induced the Complainants to make early payments by assuring that “early payment would ensure early delivery”, based on which the lending bank had also disbursed the loan amount. The Complainants states that as on 26.04.2017, when approximately 50% of the sale consideration had been paid, the construction progress was only up to the 4th slab, whereas, as per the agreement, it ought to have reached the 7th slab. Similarly, as on 17.03.2020, when approximately 70% of the sale consideration had been paid, the construction was allegedly completed only up to the 11th slab, though the 12th slab was expected to have been completed as per the agreed schedule.

14. The Complainants submits that after completion of the 12th slab, the Respondent allegedly halted the construction activities for nearly two years, citing labour shortage due to the COVID-19 pandemic. Consequently, the lending bank refused to release further disbursements in the absence of construction progress. However, despite the alleged stoppage of work, the Respondent continued to issue repeated reminders to the Complainants for further disbursements and allegedly levied delay charges for delayed payments, even though there was no substantial progress in construction and the committed date for handing over possession had already elapsed.

15. It is further submitted that the Respondent had obtained permission from the Greater Hyderabad Municipal Corporation in January 2015 for the development of the project, with the project expected to be completed on or before March 2020 (Exhibit-8). The Complainants states that the Respondent also orally assured that the flats would be registered and handed over, with all amenities, along with the Occupancy Certificate, before June 2020. However, such commitment was not specifically incorporated in the Agreement of Sale. The Complainants contends that till date the project has neither been completed nor has possession of the subject flat been handed over. It is further alleged that the Respondent continued to issue repeated demand notices through emails and letters and also made phone calls demanding further disbursements along with late payment charges, which caused severe mental stress to the Complainants.

16. The Complainants further submits that as per Clause-6 of the Agreement of Sale, the Respondent stipulated penal interest at the rate of 18% for delays up to 30 days and

24% for delays beyond 30 days in respect of payments to be made by the purchaser. However, the Agreement of Sale does not contain any corresponding clause providing for compensation or penal charges payable by the Respondent to the purchaser in the event of delay in completion of the project. The Complainants therefore contends that the Agreement of Sale is one-sided in nature and constitutes an unfair trade practice on the part of the Respondent.

17. The Complainants further submits that the permission granted by the Greater Hyderabad Municipal Corporation for the project stipulated completion of construction on or before 18.03.2020. According to the Complainants, any construction carried out after the said date would be without valid approval from the said authority. The Complainants therefore contends that the Respondent has violated the conditions of approval granted by the municipal authority and, despite such lapse, continued to issue demand notices to the Complainants for further loan disbursements from the lending bank. It is further alleged that such demands were made despite the Respondent being aware that failure to honour the Pre-EMI obligations under the Agreement of Sale dated 25.04.2017 would cause financial hardship to the Complainants.

18. The Complainants also submit that due to repeated calls, emails and letters from the Respondent demanding further disbursements and imposing late payment charges, despite substantial delay in the project, they have suffered financial, physical and mental distress. The Complainants states that due to non-payment of the Pre-EMI amounts and the prolonged delay in completion of the project, he experienced severe stress, which allegedly aggravated his existing medical condition. It is further stated that Complainants have suffered health complications in the year 2020, including hospitalization during the COVID-19 period, and required considerable time for recovery. The Complainants further contends that the Tripartite Agreement executed with the lending bank does not stipulate any specific date of delivery of the flat, despite the property being mortgaged. According to the Complainants, the Respondent repeatedly raised demands for advance payments corresponding to higher construction stages, which, according to him, amounts to adoption of unfair trade practices.

19. The Complainants further submits that the Respondent has failed to honour its obligation to pay the Pre-EMI amounts as stipulated in the Agreement of Sale dated 25.04.2017. The Complainants states that he addressed several emails and letters on different occasions, requesting that the Respondent clear the pending Pre-EMI reimbursements. According to the Complainants, an amount of Rs.30,41,178/- remains due

towards unpaid Pre-EMI reimbursements from the Respondent, and the Complainants claims the said amount along with 24% recurring interest for the alleged unfair trade practice and deficiency of service.

20. The Complainants further submits that due to the prolonged delay in completion and handing over of the project, he has been compelled to reside in rented accommodation for several years. It is stated that he is presently paying a monthly rent of Rs. 34,000/- (Rupees Thirty Four Thousand Only), and has produced the rent receipt for the month of November 2024 to contend the same.

21. The Complainants further submits that the Respondent, through an email dated 22.12.2019, informed that the Agreement of Sale would be converted into a standard agreement by withdrawing the Pre-EMI Scheme earlier offered to the Complainants (Exhibit-11), and also sought to levy delay charges alleging delay in disbursement of funds. The Complainants disputes the said allegation and contends that the payments were made in advance and in accordance with the demands raised by the Respondent. It is further contended that certain financial institutions, including LIC Housing Finance Limited, had declined to release further disbursements on the ground that the construction progress was only around 60%, whereas the Respondent was claiming nearly 80% completion and demanding further loan disbursement. The Complainants submits that his banker had initially disbursed a substantial portion of the loan in expectation of early completion of the project; however, at a later stage the lender declined further disbursements upon noticing the slow pace of construction. Despite the same, the Respondent allegedly continued to demand further payments along with delay charges while ignoring the requests made by the Complainants for payment of the pending Pre-EMI dues. The Complainants therefore contends that the unilateral conversion of the Pre-EMI Scheme into a standard payment scheme is illegal and void ab initio.

22. The Complainants further submits that the Respondent has not responded to the various emails and letters addressed by the Complainants seeking clarification regarding the progress of construction and payment of the Pre-EMI amounts. However, the Respondent allegedly continued to issue notices demanding release of further funds along with delay charges and also threatened cancellation of the allotment. The Complainants contends that the demand for delay charges without any default in payment on his part or on the part of his banker constitutes an unfair trade practice. It is further contended that such delay charges cannot be imposed when the delay in completion of the project is attributable to the Respondent itself.

23. The Complainants further submits that the Respondent subsequently raised demands towards GST charges without providing any separate GST invoices. According to the Complainants, at the time of execution of the Agreement of Sale, the Respondent had stated that statutory charges would be payable at the time of registration of the flat, along with other applicable charges, upon completion of the project. The Complainants, therefore, contends that the demand for GST charges at the said stage without the issuance of proper invoices is not justified.

24. The Complainants further submits that at the time of execution of the Agreement of Sale dated 25.04.2017, the said act was not in force. However, it is contended that, as per the statutory framework introduced under the said Act, all ongoing projects that had not obtained a Completion Certificate or Occupancy Certificate were required to be brought under the regulatory regime and comply with the provisions prescribed therein.

25. The Complainants submit that the RERA Act is as follows: "For ongoing projects, the rules required developers to register any real estate projects that were ongoing as of the date of the act's implementation (May 1, 2017) and had not received a completion certificate. Developers had to apply for registration of these ongoing projects within three months from the date of notification of the Telangana RERA rules, which means they needed to register by November 4, 2017.

26. The Complainants further submits that although the project in question was commenced in the year 2015, prior to the coming into force of the RERA framework, the project remained an ongoing project after the commencement of the Act. According to the Complainants, the Respondent was therefore under an obligation to register the project under the RERA regime and to carry out the development strictly in accordance with the provisions of the Act and the rules made thereunder. It is alleged that despite a lapse of nine years, the project has neither been registered under the RERA framework nor completed and handed over to the Complainants, and the Complainants submits that it is. It is the settled law that the builder should complete the project within 3 years from the date of commencing the construction.

27. The Complainants further submits that it came to his notice that due to road widening undertaken by the Greater Hyderabad Municipal Corporation, the compound wall of the project had been drawn closer to the building structure, which may potentially affect the undivided share of land (UDS) attached to the subject flat. The Complainants states that he had requested the Respondent to disclose the revised undivided share corresponding to the subject flat.

28. The Complainants finally submit that the acts and omissions of the Respondent, including delay in completion of the project and non-compliance with the obligations allegedly undertaken, amount to a deficiency of service and unfair trade practices. The Complainants states that, being an allottee within the meaning of the provisions of the Real Estate (Regulation and Development) Act, 2016, he has approached this Authority seeking appropriate relief against the Respondent.

B. Relief(s) Sought:

29. Accordingly, the Complainants sought the following reliefs:
- i. To direct the Respondent to register the project with the TGRERA.
 - ii. To direct the respondent to register the flat No.906-A, unconditionally on Complainants name immediately by bearing the registration charges by builder only, since the project was started 9 years back (i.e. in 2015) and it's still undergoing and badly delayed for more than 4 years.
 - iii. To direct the respondent to handover the Flat No.906-A with all the amenities immediately duly providing Occupancy Certificate.
 - iv. To direct the respondents to furnish carpet area dimensions within the walls as defined under RERA Act Obligation to disclose Carpet Area section 13(2) & RERA rule 3 which was not disclosed in agreement of sale.
 - v. To direct the respondent to disclose the revised undivided share of the Flat No.906-A, since the compound wall was drawn close to the flats by almost 10 feet and reducing the driveway/park areas.
 - vi. To direct the respondent not to threat for delay charges and cancellation of project and to direct waiving of all the delay charges levied.
 - vii. Pay back my Pre-EMI instalments of Rs.30,41,178 (thirty lakh forty-one thousand one hundred seventy-eight only) due as on date + 24% recurring interest per annum on the above Pre-EMI dues and continue the same till handing over of Flat No.906-A with all the amenities and occupancy certificate as per the agreement of sale.
 - viii. To direct the respondent to pay the interest immediately as delay charges on the excess amount collected from the Complainants and the funds received by the opposite party.

C. Respondent Reply:

30. The Respondent categorically denied all allegations made in the Complaint, except those expressly admitted herein. It has been submitted that the Complaint has been filed

against the Respondent on false, speculative, and baseless grounds, and with an ulterior motive to harass the Respondent without any substantial proof.

31. That the Complainants suppressed/misrepresented the fact that previously the Complainants filed a consumer case against the Respondent Company herein, and that complaint is pending for adjudication before the Telangana State Consumer Disputes Redressal Commission (CC No. 62 of 2023). The complainants again filed the present complaint before this Hon'ble Authority with almost the same set of reliefs, which is totally against the principles of natural justice. The complainants, after filing a complaint with the competent authority under the Consumer Protection Act, have again approached this Hon'ble Authority for the same reliefs, which are not maintainable. The Complainants make a contradictory statement in the complaint that the Complainants have no complaints/cases pending with any other court/ authority is false. Thus, the complaint filed by the complainants is not maintainable and is liable to be dismissed on the ground of Res Judicata. The Complainants can opt for only one remedy at a time, but they filed another complaint before this Hon'ble Authority with the same set of prayers against a single cause of action, which is arbitrary and contrary to law.

32. That the Complainant's flat booking was cancelled on 15th July, 2025, by following the due process and hereby invoking clause 7 of the Agreement of Sale dated 25th April, 2017 and the said cancellation was informed to the Complainant through the Final Cancellation Letter dated 18.07.2025. It is submitted that the Respondent Company issued multiple reminders to the Complainants through emails and letters, including a Reminder Letter dated 14.04.2025, a reminder email dated 16.04.2025, followed by another Reminder Letter dated 13.06.2025, a reminder email dated 17.06.2025, followed by another Reminder Letter dated 26.06.2025 and 07.07.2025. These communications were issued as a final attempt to seek any possible payments from the Complainant. Despite receiving multiple notices and reminders, the Complainants failed to make any payments towards the sale consideration as demanded by the Respondent which caused significant delays in the payments that were made. As a result, Clause 7 of the Agreement of Sale dated 25.04.2017 was invoked, leading to the final cancellation of the flat on 15.07.2025, as communicated through the Final Cancellation Letter dated 18.07.2025.

33. The Respondent categorically denies the averments made in Paras 2 and 3 of the Complaint. That the Complainants had proceeded to book a flat in the Project on their own. The Complainants, of their own free will, after privately enquiring about the Respondent in the market, booked the subject flat and are required to provide strict proof of their

baseless allegations that they were lured by promises of the Respondent Company before booking the subject Flat. It is submitted that relying on the credibility and the prestige of the Respondent Company, the Complainants booked the Subject Flat i.e, Flat No. 906 ("Subject Flat") admeasuring 1610 sft. including common areas located on the 9th floor along with two car parking spaces in "A" Block- Aditya Capitol Heights of Aditya Construction Company Pvt. Ltd., (Aditya Capitol Heights is hereinafter referred to as the "Project") for a total sale consideration of Rs. 76,03,500/- (Rupees Seventy-Six Lakhs Three Thousand Five Hundred only). It is further submitted that the Complainants had booked the flat on the Pre - EMI Scheme offered by the Respondent Company.

34. It is submitted that the Complainants have mischievously suppressed the important and material facts in Para 3 of the instant complaint by stating that Pre - EMI Scheme is merely confined to the payment of Pre - EMI amounts by the Respondent till the completion of the flat whereas, the fact of the matter remains that, as informed to the Complainants prior, the Pre - EMI Scheme is a conditional benefit offered to select few customers. It is further submitted that in the Pre - EMI Scheme offered by the Respondent, it is mandatory for the Complainants/customers to strictly make timely payments to avail the benefit, without which the benefit automatically gets cancelled/removed from such customer. While the Complainants is right to state that the Respondent would pay the Pre - EMI amounts till completion of the flat i.e., till handing over the flat for interiors, the Complainants have cleverly suppressed from the Hon'ble Authority that by virtue of selecting to avail the benefit, the Respondent can only execute its part of promise after receiving timely payments from the customer/complainants. If the customer (Complainants herein) fails to make such timely payment towards the sale consideration, then they are automatically disqualified from the said Scheme. The Complainants were informed about the said condition, and the instant benefit can only be applied subject to them meeting the said condition. However, the Complainants violated the terms of the benefit and are baselessly accusing the Respondent of withdrawing from their responsibility. The Pre-EMI scheme eligibility was subject to the Complainants' compliance with a set of pre-conditions, i.e, firstly, a lump sum payment of 85% and secondly, payments in a timely manner, as per the agreed schedule of payments. The Complainants failed to comply with both of the above preconditions. It is submitted that, at a bare perusal of clause 4 and 6 of the Flat Booking Letter and clause 4 of the Agreement of Sale, the precondition to be eligible for the Pre-EMI Scheme is that the complainants shall submit the home loan documents to the bank and execute the home loan document within 10 days for issuance of Flat Booking Letter. It

is submitted that the Complainant's home loan disbursement was on 26.04.2017, with a delay of 70 days after issuance of the Flat Booking Letter, which is evident from Exhibit-3 filed by the Complainants along with the complaint. However, the complainants failed to submit the home loan documents to the bank and execute the home loan document within 10 days from the date of issuance of Flat Booking Letter dated 16.02.2017, and they are automatically disqualified from the pre-EMI scheme, and the customer has to make payments as per the standard payment schedule.

35. The Complainant's averments in Para 4 of the Complaint are devoid of a complete and whole set of facts. The Complainants booked the Subject Flat in the Project on 10.02.2017 by signing a booking form by making an advance payment of Rs. 1,00,000/- vide cheque no. 047610 drawn on AXIS Bank, dated 10.02.2017. Subsequently, a Flat Booking Letter was issued by the Respondent on 16.02.2017, allotting the Subject Flat to the complainants. It is submitted that the complainants are required to make a 10% payment of the Flat Cost within 7 days from the date of issuance of the Flat Booking Letter, but they have grossly failed to make the payment within 7 days. It is submitted that out of the 10% booking amount i.e., Rs. 7,60,350/- the complainants made a partial payment of Rs. 1,00,000/- on 04.03.2017, and a payment of Rs.3,00,000/- on 03.04.2017 and completed the payment of booking amount on 22.04.2017 by making a payment of Rs. 2,60,000/- through a post-dated cheque with no.640358 dated 30.06.2017, and a consolidated Receipt for an amount of Rs. 7,60,000/- was issued by the Respondent on 22.04.2017, this clearly acknowledges that booking amount of 10% was not paid within 7 days and respondent generously continued with the Flat Booking even though payments were delayed substantially by the Complainants. It is submitted that the complainants and respondent entered into an Agreement of Sale, dated 25th April, 2017, out of free will, being fully aware of the terms and conditions. It is submitted that the Exhibit-1 filed by the Complainants before this authority is not related to the Subject Flat, and they were misleading this Hon'ble Authority by filing the irrelevant document to gain undue advantage before this Hon'ble Authority.

36. That the averments made in Para 5 of the Complaint that the Complainants, upon their own will, opted for the Pre-EMI scheme and obtained a Home Loan from the PNB Housing Finance Ltd., and got an approval of Rs. 65,00,000/- on 25.04.2017, which is almost equivalent to 85% of the Flat cost. The Complainants, of their own free will, opted to finance their home loan through Punjab National Bank and thereafter entered into the Tripartite Agreement on 25th April, 2017, as part of the bank-mandated loan process. It is

submitted that the Complainants are quick to accuse the Respondent of collecting an excess amount, but the fact of the matter is that 85% has to be disbursed from the bank, excluding 10% booking amount, which the Complainants have failed to do.

37. The Complainant's averments in Para 6 of the Complaint are devoid of a complete and whole set of facts, that the Complainants were required to get disbursement of 85% of the cost of the Subject Flat, i.e, Rs. 65,00,000/- under the Pre-EMI scheme, but failed to do so. It is submitted that the para 6 of the AOS specifies about timely payments and penalty for delayed payments, the complainants herein, in the para 6 of the complaint trying to take shelter under the Standard Payment Schedule although they have booked flat under Pre-EMI scheme and para 4 of the AOS clearly specifies preconditions for a Pre-EMI scheme and this was conveniently neglected by the Complainants, that the Complainants are severe defaulters as they never paid any due amounts in time even when there are multiple reminders from the Respondent Company.

38. The complainants delayed the payment of the Booking Amount by 60 days, and continued to cause delays in each and every stage payment under the standard scheme; the delays caused by the complainants in stage payments range between 37 and 1679 days. It is submitted that the Complainant delayed Foundation stage payment and 2nd slab Payments by 37 days, payments towards 7th Slab were delayed by 199 days, 12th Slab payments were completed with a delay of 1004 days. The Complainants made their last payment on 25.08.2022 for the 14th Slab Stage payment, which was a partial payment with a delay of 630 days, and the Complainants never made any payment after that, not even towards statutory taxes. The Complainants' 14th stage payment was due by more than 1697 days, the Brick works & Plastering stage was due by 1294 days, the Flooring & Painting stage was due by 603 days, and the payment at the time for possession for interior works was due for more than 86 days. The complainants were still due a total flat cost of more than 1942 days, and substantive Stage-wise GST payments were also delayed by the complainants. The Respondent Company sent multiple payment reminder letters to the complainants with Letters dated 07.07.2025, 26.06.2025, 13.06.2025, 14.04.2025, 03.02.2024, 23.01.2024, 16.12.2023, 10.12.2022, 15.09.2022, 10.08.2022, 25.06.2022, 24.05.2022, 27.02.2022, 25.01.2022, 23.12.2021, 06.10.2021, 02.07.2021, 11.06.2021, 20.05.2021, 20.04.2021, 11.03.2021, 05.03.2020, 05.02.2020, 31.12.2019, 25.11.2019, 22.10.2019 and 08.06.2019. The Respondent Company have sent several E-Mails to the Complainants requesting the due amounts dated 17.06.2025, 16.04.2025, 21.12.2022, 26.06.2021, 19.02.2020, 20.12.2019 and 16.02.2019. The Complainant's erratic payments

were evident from the Payment Schedule and also from multiple payment reminders filed herewith as Annexures.

39. That the averments made in Para 7 and 8 of the Complaint that the complainant has conveniently added service tax payment within the flat cost, although AOS clearly mentioned that Service tax shall be payable in addition to the Flat Cost. The Service Tax/GST shall be payable by the complainants in relation to the quantum of payment as applicable by the government from time to time. The Complainants were inappropriate to ask interest on the payments made towards the construction of the flat that too deviating from the payment schedule of the Pre-Emi Scheme, although their payments were erratic with huge delays, hereby causing hurdles to the smooth flow of construction of the whole project. It is submitted that, the averments in Para 8 of the complaint with reference to Para 9 & 10 of the AOS, the Complainants grossly misunderstood the clauses and misrepresented them in the complaint. The complainants have hidden the fact that all statutory charges, taxes, Cess, VAT, Sales/ Service Tax and other levies including any incidence of enhancements shall be payable proportionately by the purchasers from date of booking as per demand raised by the Developer, that is clearly mentioned in the Clause 9 of the AOS which is agreed and signed by the Complainants. As per Clause 10 of the AOS -"The purchaser shall pay maintenance charges, Corpus Fund, Service Tax and other dues prior to registration of the Flat". The clauses mentioned herein clearly specify that service tax is payable along with each and every instalment as per the demand raised by the developer, and not at the time of registration. It is submitted that the complainants in Para 8 of the complaint clearly admit that service charges were not paid by them when demanded by the developer, and the complainants have violated the terms of the Agreement of Sale.

40. That the Complainants' averments in Para 9 of the Complaint are devoid of a complete and whole set of facts. It is submitted that the developer paid Rs. 1,99,000/- (Rupees One Lakh Ninety-Nine Thousand Only) for the Pre-EMI benefit but ceased further payments due to the Complainant's severe breach of the Pre-EMI Scheme's terms and conditions. The scheme requires beneficiaries to make timely payments toward the sale consideration without delay. It is submitted that the Complainants delayed the payment of the booking amount by 60 days and continued to cause inordinate delays in subsequent payments towards the sale consideration. Due to their consistent disregard for the prescribed payment schedule and payment demands, the developers' representatives were compelled to disqualify complainants from the Pre-EMI Scheme and discontinue all Pre-EMI payments. The Complainants were informed about their disqualification multiple

times, including through an email dated December 20, 2019, herewith enclosed as Annexure-37. It is important to note that the Complainants were always aware of the timely payment condition and their subsequent disqualification due to delayed payments. Therefore, the Complainants are now estopped from claiming Pre-EMI benefits. Furthermore, the Complainants incorrectly state that the Developer Company received excess funds. A review of the Payment Status Report dated July 9, 2025, clearly shows that the developer received only small portions of the sale consideration, with major delays from the Complainants. The payments demanded from the complainants are strictly as per the Pre-EMI scheme. When complainants failed to adhere to the payment schedule of the Pre-EMI scheme, they were automatically converted to the standard Scheme as per the Agreement of Sale. The payments demanded post conversions were strictly as per the standard scheme. The Respondent has issued demand letters to the complainants only after completion of stage milestones as per the AOS, clearly mentioning the status of the constructions along with photographs. It is respectfully submitted that the Complainants ceased to be eligible to receive any reimbursement of Pre-EMI payments upon repeated defaults in making payments under Clause 5 of the Agreement of Sale dated 25th April, 2017.

41. That the Complainant's averments in Para 10 of the Complaint are devoid of complete and whole set of facts. It is submitted that the Complainants are absolutely wrong in stating that there was no progress in the construction. The construction has progressed in great pace, especially after absorbing the blows received from the Covid - 19 pandemic. It was during this period that the construction industry, including the Respondent, faced severe adversities such as migration of labour causing scarcity of labour, lack of funds from its customers which in turn made the Developer Company obtain loans at heavy interest rates, shortage of proper and adequate material supply and regularity of such material supply, improper staff regulations leading to under-productivity of the sector, uncertainty of demand, perpetual nationwide lockdowns, and financial loss. Tackling each of these issues and recovering from them has taken significant time and extreme efforts by the developer. The construction swiftly progressed in between the Lockdowns as permitted by the government authorities time to time. The developer never stopped or intended to halt the construction; in fact, the respondent herein is the most affected due to the pandemic. The complainants are put to strict proof of the averments made in the aforementioned para, several demand letters sent by the respondent are proof that there is substantive progress in construction.

42. That the Complainant's averments made in Para 11 of the Complaint are misleading and devoid of complete facts. The complainant's flat is completed in all respects, and the complainant was informed through various communications that the flat is completed and ready for handing over. The respondent made several requests to the complainants to clear the due amounts and to take possession of the flat. However, the complainants failed to clear the dues and to take possession of the flat.

43. That the Complainant's averments made in Para 12 of the Complaint are misleading and devoid of complete facts. The Complainants are liable to pay delay charges as required under Clause 6 of the Agreement for Sale dated 25th April, 2017, which stipulates that "In case of payment is not received within the time frame i.e, as per the schedule of payment attached with the Agreement of Sale, a penal interest of 18% P.A would be levied on the delayed payment for the delayed period. In case of delay in making payments for the first 30 days, an interest of 18% P.A will be levied and beyond 30 days will attract an interest of 24% P.A". It is submitted that the Complainants are liable to pay delay charges amounting to Rs.22,53,087/-. The Payment Schedule with dates of payment and delay charges is filed herewith for the kind perusal of this Hon'ble Regulatory Authority.

44. It is respectfully submitted that the averments made in Para 13 of the Complaint are utterly false and an attempt to villainise the Respondent company. It is respectfully submitted that the Respondent was granted an extension of time for completion of the Project automatically pursuant to the permission granted by the State Government vide G.O.Ms.No.107 as part of a suo moto extension due to the force majeure event of the COVID-19 pandemic. A copy of the said G.O. and extension permission is annexed hereto as Annexure-2, for the ease of reference. It is also humbly submitted that COVID-19 was recognized as a force majeure circumstance' by Telangana State RERA vide Order No.16 dated 01.06.2021, wherein TG RERA recognized the unexpected labour shortage due to the second wave of COVID-19. The TS RERA Order is attached herewith as Annexure-3 for the kind perusal of the Hon'ble Authority. It is further submitted that the Project has been completed and the Respondent Company has already made an application for the issuance of an occupancy certificate. A copy of the application made for the issuance of the occupancy certificate is enclosed herewith, for ease of reference. It is submitted that the flats in the Project are ready for possession as the installation of lifts is also completed by the Respondent Company. A notable number of customers have already taken their flats for interiors, and many have got their flats registered.

45. That the Complainant's averments made in Para 14 are false and baseless, and the Complainant's are put to strict proof of the same. It is submitted that the Complainants are attempting to cast a negative light on the Respondent Company and victimising their position by cleverly failing to make any reference to obligations that they have failed to fulfil. It is further submitted that the Complainants' claim that the Respondent Company failed to reply to the Complainants is utterly false as they engaged in discussions through personal discussions, letters and emails to the Complainants.

46. That the Complainant's averments made in Para 15 are false and misleading. The Complainants failed to promptly make payments under the Agreement of Sale, causing distress to the Respondent Company, and are attempting to victimise themselves before the Hon'ble Authority by conveniently avoiding any reference to their shortcomings. The Agreement of Sale was signed by the Complainants after mutual discussions with the Respondent Company, out of free will and consent, after reading and being fully aware of the terms and conditions contained therein.

47. That the Complainant's averments made in Para 16 of the Complaint are outside the scope of the terms and conditions of the Agreement of sale. The complainants delayed payments and continued to not to clear the due even though the flat is completely ready for handover.

48. That the Complainant's averments made in Para 17 and 18 of the Complaint are false and misleading, as such the Complainants are put to strict proof of the same. It is submitted that payments are disbursed by banks only after verification of the stage of progress by the bank manager or any other person appointed by the bank, and as per the report submitted by them. It is also submitted that the disbursement of any loan amount would have been made only after authorisation from the Complainants. The Complainants are liable to pay delay charges as required under Clause 6 of the Agreement for Sale dated 25th April, 2017, by virtue of the same. It is submitted that the Complainants were disqualified from the Pre-EMI payment scheme due to multiple payment defaults. The habitual delays by the Complainant, spanning months across several instalments, rendered them ineligible for any benefits under the scheme. It is false and audacious for the Complainant to allege that the Respondent failed to pay Pre-EMIs, especially when the Complainant's failed to comply with their obligations under the terms and conditions of payment under the Agreement of Sale. It may be noted that the Complainants lost their eligibility for Pre-EMI payment due to their defaults in making the timely payments, and as such, the Complainant is not entitled to any benefit under the Pre-EMI scheme, as the

same was extended as an incentive for purchasers who make prompt payments and not for the defaulting purchasers.

49. That the Complainant's averments made in Para 19 are false and misleading, and the Complainants are put to strict proof of the same. It is submitted that it is a well-known fact that GST Bills are not provided separately to each purchaser of the Flat. The GST charge is paid on a whole-turnover basis, so separate GST Bills are not issued by the concerned department in the first place. Therefore, the Complainants are estopped from making unreasonable demands. The Service Charges/GST are payable in accordance with clauses 9 and 10 of the Agreement of Sale. It is submitted that the Respondent Company never made any assurances beyond the Agreement of Sale to any of its customers.

50. That the Complainants averments made in Paras 20, 21 and 22 of the Complaint that the Project is an old project and was excluded from applicability under RERA as per the definition of "Ongoing Project" provided under Section 2 (1)(j) of the Telangana Real Estate (Regulation and Development) Rules, 2017 which excludes such Projects for which building permissions were approved prior to 01.01.2017 by the Competent Authorities viz., UDAs/ DTCP/ Municipal Corporations/ Municipalities/ Nagar Panchayats/ TSIIC as the case may be, as on date of receipt of the Complaint by the respondent. It is humbly submitted that retroactive application of the RERA Act requiring the registration of ongoing projects was addressed only in 2023 by the Supreme Court in Civil Appeal No(s). 6745-6749 of 2021, Newtech Promoters and Developers Private Limited Vs State of Uttar Pradesh and others. Therefore, to make allegations that the Respondent did not follow the provisions of RERA Act, 2016 is only to create contempt for the Respondent before this Hon'ble Authority and an attempt to implicate the Respondent for acts that were neither voluntary nor intended in any way to violate the provisions of RERA Act, 2016. It is further submitted that the Project has been completed and the Respondent Company has already made an application for an occupancy certificate. Copy of the application made for issuance of occupancy certificate is enclosed for the ease of reference. The Complainants may make payments of all outstanding dues and take possession of the Subject Flat, which is already completed and ready for handing over for possession and registration.

51. The Complainants averments made in Para 23 that only the super built-up is specified in the Agreement of Sale dated 25th April,2017, pursuant to mutual discussions between the Respondent and the Complainants. The undivided share will be shared appropriately between the owners of the flat, and the Complainants' averments made in

Para 24 of the Complaint are utterly false and baseless, and the Complainants are put to strict proof of the same.

52. The Respondent submitted for the own benefit of Complainants, made these baseless allegations affecting the other buyers' faith and trust in the Respondent company, which could lead to severe business losses to the Respondent Company. Therefore, the Respondent Company prays that the allegations made by the Complainants are far-fetched and intimidating the business prospects and sentiments of many home buyers unless rejected as unfounded and false by this Authority.

53. That in the light of all the facts and circumstances as stated above, it has been submitted that the Complainants has consistently defaulted in making the timely payments to the Respondent Company and has invented these baseless, false and unfounded allegations for the purpose of this complaint. The Respondent has already applied for the Occupancy Certificate and is ready to hand over possession of the subject Flat.

54. Therefore, Respondent has prayed that this Honourable Authority may be pleased to dismiss the Complaint with costs under the circumstances of the case by considering the facts and submissions made by the Respondent, with substantial reasoning as to why the Complainants is not entitled to any of the reliefs prayed therein, in the interest of justice.

D. Rejoinder

55. The Complainants filed a rejoinder to the counter filed by the Respondent and reiterated the averments made in the complaint. It is submitted that the allegations made by the Respondent in the counter are false, baseless, and misleading and are denied except to the extent specifically admitted.

56. It is submitted that the Respondent has filed the counter belatedly and the same contains fictitious and misleading averments, which are intended to delay the proceedings before this Authority. The Complainants further submit that the Respondent has failed to engage in bona fide negotiations for amicable settlement and has deliberately avoided communications, thereby prolonging the dispute.

57. With respect to the contentions raised by the Respondent in Para-1 of the counter, the Complainants submit that the same are untenable and devoid of merit, and; the Complainants also contend that the Respondent has sought to mislead this Hon'ble Authority by filing a fictitious and fabricated "delay charge" document, which is contrary to the record and was never served upon the Complainants; and such conduct on the part of the Respondent reflects malafide intention and therefore deserves to be disregarded in toto.

58. With respect to the allegations raised by the Respondent in Para-2 of the counter, the Complainants submit that the same are untenable and misleading, and it is contended that *the Complainants had already disclosed in Para-7 of the Form-M complaint filed before this Hon'ble Authority that a case was filed before the State Consumer Disputes Redressal Commission in C.C. No. 62 of 2023 dated 23.08.2023 and therefore there is no suppression or misrepresentation on their part*; The Complainant further submitted that the Hon'ble Supreme Court in *M/s Imperia Structures Ltd. v. Anil Patni & Another (Civil Appeal Nos. 3581-3590 of 2020, judgment dated 02.11.2020)* has categorically held that the remedies available under the Real Estate (Regulation and Development) Act, 2016 are in addition to and not in derogation of the remedies under the Consumer Protection Act, 1986, and that homebuyers are entitled to pursue remedies under multiple statutes including RERA and the Consumer Protection Act; therefore, the contention of the Respondent that the present complaint is not maintainable is legally untenable; and it is further submitted that the Respondent, by suppressing the settled legal position and misrepresenting facts, has falsely alleged suppression on the part of the Complainants, which is a deliberate attempt to mislead this Hon'ble Authority and is liable to be rejected.

59. With respect to the allegations made by the Respondent in Para-3 of the counter, the Complainants submit that the same are wholly untenable and devoid of merit, and it is contended that the Complainants were never made aware of any cancellation letter allegedly issued by the Respondent and emphatically deny receipt of such communication; it is further submitted that *the Respondent had issued multiple letters demanding payments and threatening cancellation of the flat booking in case of non-payment within a short period*, however, the alleged cancellation letter dated 18.07.2025 was never brought to the notice of the Complainants and appears to have been created only for the purpose of filing the counter; it is also submitted that such notices were coercive in nature and issued with malafide intention, and the Complainants had responded to such notices and also filed a Memo dated 14.08.2025 (Encl-10) before this Hon'ble Authority seeking appropriate directions regarding Pre-EMI dues; it is further contended that the Respondent, on one hand, consumed the valuable time of this Hon'ble Authority across multiple hearings by representing that a settlement would be arrived at, while on the other hand simultaneously threatening cancellation of the flat booking, thereby exhibiting contradictory conduct; such actions clearly demonstrate unfair trade practices and an attempt to mislead both the Complainants and this Hon'ble Authority, and therefore the allegations made by the Respondent in this regard are liable to be rejected.

60. With respect to the contentions raised by the Respondent in Para-4 and 5 of the counter, the Complainants submit that the same are false, baseless, and misleading, and it is contended that *the Complainants, upon seeing the advertisement of the project, approached the Respondent and were induced by the representatives of the Respondent with assurances regarding pricing, amenities, quality of construction, timely delivery and Pre-EMI scheme benefits*, and it is further submitted that the Complainants were initially unaware of the Pre-EMI scheme and were informed by the officials of the Respondent that the entire interest component would be borne by the Respondent till completion and handover of the flat, and that the loan process would be handled by the Respondent's team, based on which the Complainants agreed to proceed; it is submitted that the Complainants had submitted all necessary documents and the loan was processed through various banks and ultimately sanctioned by PNB Housing Finance Limited on 21.04.2017 for an amount of Rs.65,00,000/-, and therefore the allegation of delay in submission of loan documents is false and any delay, if any, is attributable to the Respondent's own team; it is further submitted that there is no clause in the Flat Booking Letter dated 16.02.2017 or the Agreement of Sale dated 25.04.2017 permitting withdrawal of the Pre-EMI scheme or imposition of penalties on account of such alleged delay, and hence the Respondent's contention is not sustainable; it is also submitted that the Respondent had in fact paid Pre-EMI amounts for a period of nine months from 01.05.2017 to 17.02.2018, which itself establishes that the Complainants were never disqualified from the said scheme; it is further submitted that *the Complainants had booked the subject flat by paying advance amounts and thereafter entered into Agreement of Sale and loan disbursements were made*, however, at the time of execution of the Agreement of Sale, the construction progress was only at about the 3rd slab stage, whereas the Respondent had drawn nearly 50% of the sale consideration including bank disbursement by misrepresenting the stage of construction; it is further submitted that the Agreement of Sale did not disclose actual stage-wise construction details nor were any proper intimations given thereafter, and therefore the reasons now sought to be put forth by the Respondent for withdrawal of Pre-EMI benefits and imposition of delay charges are unsustainable; it is also contended that the Agreement of Sale came into force only upon execution and delay charges, if any, can be linked only to actual construction progress and not to booking advance, and that the Complainants had in fact paid amounts in excess of proportionate construction progress; and it is further submitted that the Complainants have placed on record the correct Flat Booking Letter in clarification of the earlier inadvertent submission.

61. With respect to the contentions raised by the Respondent in Para-6 and 7 of the counter, the Complainants submit that the same are wholly untenable, misleading, and not supported by facts or law, and it is contended that *the Complainants were induced to opt for the Pre-EMI scheme based on the representations and assurances made by the officials of the Respondent*, and not voluntarily as alleged; it is further submitted that the Respondent had assured that the entire interest component payable to the Bank under the Pre-EMI scheme would be borne by the Respondent till completion and handover of the flat, based on which the Complainants proceeded with the purchase and entered into the Tripartite Agreement; it is further submitted that the contention of the Respondent that the loan amount of Rs.65,00,000/- was not disbursed as required is misleading, as under the Agreement of Sale and Tripartite Agreement, disbursements were to be made in stages linked to construction progress upon verification by the Bank, and therefore any allegation of delay attributable to the Complainants is incorrect; it is also contended that the Respondent has produced a fabricated “delay charges” statement calculated from the date of booking, which is contrary to the terms of the Agreement and record; it is further submitted that the material placed on record by the Complainants clearly demonstrates that at each stage the loan amounts were disbursed in advance of the actual construction progress, thereby establishing that the Complainants had made payments ahead of schedule while the Respondent failed to achieve corresponding construction milestones; and therefore, the contention of the Respondent that there was delay in disbursement by the Complainants or the Bank, and on that basis withdrawal of the Pre-EMI scheme and imposition of delay charges, is a deliberate misrepresentation intended to mislead this Hon’ble Authority and is liable to be rejected.

62. With respect to the objection raised by the Respondent in Para-8 of the counter, the Complainants submit that the same is untenable and misleading, and it is contended that *as per the Agreement of Sale, the statutory charges, maintenance charges, service tax/GST and corpus fund were agreed to be payable in accordance with the terms therein*, however, contrary to such terms, the Respondent raised demands towards service tax/GST at every stage of loan disbursement, which were premature and not in accordance with the agreed conditions; it is further submitted that the Complainants had denied such premature demands and at no point contended that such charges formed part of the sale consideration; it is also contended that the Respondent has wrongly alleged deviation and delay in payments, whereas the material placed on record clearly demonstrates that the Respondent had received amounts in excess of what was proportionate to the actual stage of

construction; and therefore, the claim of the Complainants for interest on such excess amounts is justified, particularly in light of the substantial delay in completion of the project beyond the promised timeline; it is further submitted that instead of reimbursing the Pre-EMI amounts with applicable interest, the Respondent has sought to impose delay charges, which amounts to an unfair trade practice, and therefore the contention of the Respondent is liable to be rejected.

63. With respect to the objection raised by the Respondent in Para-9 of the counter, the Complainants submit that the same is untenable and contrary to record, and it is contended that the allegation of suppression of material facts is false, as *the Complainants were permitted time by the Respondent to pay the booking advance and the loan process was handled through the Respondent's own team culminating in execution of the Agreement of Sale*, and thereafter the Respondent itself paid Pre-EMIs for a period of nine months up to February 2018, which establishes the subsistence of the scheme; it is further submitted that the Respondent subsequently stopped payment of Pre-EMIs without justification and only later, through email dated 20.12.2019, alleged irregular payment schedule on the part of the Complainants, which allegation is specifically denied as the Complainants have not defaulted in milestone-based payments; it is also contended that the Respondent has misrepresented before this Hon'ble Authority that only a small portion of the sale consideration was received, whereas the record reflects that the Complainants have paid a substantial portion of the sale consideration, *including approximately 78% of the flat cost*, and that a significant amount towards Pre-EMI remained payable by the Respondent, thereby placing an additional financial burden upon the Complainants; and therefore, the objection raised by the Respondent is devoid of merit and liable to be rejected.

64. With respect to the objections raised by the Respondent in Para-10 and 13 of the counter, the Complainants submit that the same are wholly untenable, false, and misleading, and it is contended that the claim of the Respondent that construction progressed at a great pace, particularly after the Covid-19 pandemic, is not borne out by record; it is further submitted that the GHMC building permission dated 13.03.2015 clearly stipulated that the project was to be completed on or before 18.03.2020, which is prior to the onset of the Covid-19 pandemic, and therefore the plea of delay on account of Covid-19 is untenable and appears to be an afterthought; it is also submitted that even after the Covid-19 period, the Respondent has taken several additional years and as on date internal works remain incomplete and Occupancy Certificate has not been obtained; it is further contended that *the Respondent has already collected substantial amounts from the*

Complainants and other purchasers, and yet failed to complete the project within the stipulated timeline; it is also contended that the assertion of the Respondent that construction was never halted and progressed smoothly is contrary to the factual position, as had the same been true, the project ought to have been completed and possession delivered prior to March 2020 as originally committed; and therefore the allegations of the Respondent are liable to be rejected.

65. With respect to the objections raised by the Respondent in Para-11 of the counter, the Complainants submit that the same are untenable, baseless, and misleading, and it is contended that the Respondent has been issuing repeated communications demanding that the Complainants clear alleged dues along with late fees and GST and take possession of the flat on the premise that construction is complete; however, it is submitted that the Respondent has not permitted the Complainants to inspect the subject flat for a considerable period after filing of the complaint before this Hon'ble Authority; it is further submitted that prior to initiation of proceedings, the Complainants along with other purchasers had visited the project site and observed that several internal works were incomplete, including basic amenities and essential services, and that Occupancy Certificate had not been obtained, thereby rendering the claim of completion false and misleading; it is also contended that *substantial Pre-EMI amounts remain totalling to approx. dues of Rs.32,47,399/- payable by the Respondent to the Complainants*, and instead of discharging such liability, the Respondent has raised demands towards delay charges and threatened cancellation of the allotment within short timelines; such conduct on the part of the Respondent reflects malafide intention and amounts to unfair trade practice, and therefore the objections raised are liable to be rejected.

66. With respect to the allegations made by the Respondent in Para-12 of the counter, the Complainants submit that the same are false, baseless, and untenable, and it is contended that the Respondent has wrongly claimed that delay charges are payable by the Complainants on account of alleged delay in disbursements; it is further submitted that disbursement of loan amounts is carried out by the lending bank strictly upon physical verification of construction progress, and therefore any non-disbursement cannot be attributed to the Complainants; it is also contended that *the project has been delayed beyond the committed timeline*, and due to lack of corresponding construction progress, the bank has rightly withheld further disbursements; and in such circumstances, the liability to bear Pre-EMI dues rests with the Respondent, and the demand for delay charges from the

Complainants is unsustainable; therefore, the objection raised by the Respondent is liable to be rejected.

67. With respect to the allegations made by the Respondent in Para-14 of the counter, the Complainants submit that the same are untenable and misleading, and it is contended that *the Respondent has claimed that communications were held through personal discussions, letters and emails*, however, in reality, such communications were one-sided and primarily consisted of demands calling upon the Complainants to clear alleged delay charges; it is further submitted that the Respondent failed to consider or respond to the repeated requests made by the Complainants for clearance of Pre-EMI dues and for timely handover and registration of the subject flat; and therefore, the contention of the Respondent is misleading and the objection raised is liable to be rejected.

68. With respect to the allegations raised by the Respondent in Paras-15 to 17 of the counter, the Complainants submit that the same are untenable and contrary to record, and it is contended that the repeated allegations of delay in payments on the part of the Complainants are incorrect, as the material placed on record clearly demonstrates that the Complainants had made payments in advance of the corresponding stages of construction; it is further submitted that *the Complainants have made substantial payments towards the sale consideration*, whereas the Respondent has failed to discharge its reciprocal obligations including completion of the project and handing over possession and registration of the subject flat; it is also contended that the Respondent is liable to clear the Pre-EMI dues borne by the Complainants and cannot seek to impose delay charges; and therefore, the allegations of the Respondent are baseless and liable to be rejected.

69. With respect to the objections raised by the Respondent in Para-18 of the counter, the Complainants submit that the same are untenable and misleading, and it is contended that the Respondent has stated that GST is not raised separately for each purchaser and is paid on a consolidated basis; however, the Respondent has failed to place on record any material evidencing payment of GST or service tax to the Government; it is further submitted that the Respondent has been demanding GST and other statutory charges at various stages during construction, which is contrary to the terms of the Agreement of Sale; it is also contended that *as per the Agreement of Sale, statutory charges are payable at the stage of registration*, and not during construction, and therefore such premature demands are unsustainable; it is further submitted that the Respondent is attempting to hand over the flat for interiors without committing to registration, thereby avoiding statutory obligations; and therefore, the objections raised by the Respondent are liable to be rejected.

70. With respect to the objections raised by the Respondent in Para-19 of the counter, the Complainants submit that the same are false, misleading, and untenable, and it is contended that the Respondent has wrongly claimed that the project is not required to be registered under the provisions of the Real Estate (Regulation and Development) Act, 2016 on the ground that building permission was obtained prior to 01.01.2017; however, it is submitted that *the statutory framework mandates registration of all ongoing projects which had not obtained Completion Certificate or Occupancy Certificate as on the date of commencement of the Act*, and it is further submitted that the Hon'ble Supreme Court in *Newtech Promoters and Developers Ltd. v. State of Uttar Pradesh (Civil Appeal Nos. 6745-6749 of 2021)* has categorically held that the provisions of the Act are retroactive in nature and apply to all ongoing projects without Completion/Occupancy Certificate; it is also contended that the project in question remains incomplete and no Occupancy Certificate has been obtained till date, thereby attracting the mandatory requirement of registration under Section 3 of the Act; and therefore, the contention of the Respondent that registration is not required is based on misinterpretation of law and is liable to be rejected.

71. With respect to the allegations made by the Respondent in Paras-20 to 23 of the counter, the Complainants submit that the same are untenable, false, and self-serving, and it is contended that the Respondent has incorrectly stated that the carpet area of the subject flat was specified in the Agreement of Sale, whereas the said Agreement does not disclose such particulars; it is further submitted that the Agreement of Sale was prepared in a one-sided manner by the Respondent without affording any opportunity to the Complainants to negotiate or modify its terms; it is also contended that *the provisions of the Real Estate (Regulation and Development) Act, 2016 mandate disclosure of carpet area and other particulars*, and the Respondent has failed to comply with such statutory requirements, thereby rendering the Agreement deficient; it is further submitted that the allegations made against the Complainants are intended to mislead this Hon'ble Authority and to cover up the defaults of the Respondent, including delay in completion of the project; and therefore, the objections raised by the Respondent are liable to be rejected.

72. It is further submitted that the Respondent is carrying out construction without valid statutory permission, and in this regard it is contended that the building permission obtained by the Respondent vide permit dated 19.03.2015 was valid only up to 18.03.2020, and thereafter no valid extension has been placed on record; it is further submitted that the benefit of extension under G.O. Ms. No.107 dated 08.07.2020 is not applicable to the present project, as the permission had already expired prior to the cut-off date prescribed

therein, and therefore any construction carried out subsequent to 18.03.2020 is without valid approval; it is also contended that *the Respondent had itself applied for extension of building permission before the municipal authority*, which itself indicates that no valid extension existed, and despite lapse of considerable time, no such extension has been produced; it is further submitted that in the absence of valid approvals, continuation of construction is unauthorised and illegal, and consequently the lending bank cannot be expected to release further disbursements in the absence of statutory compliance and actual construction progress, and therefore no fault can be attributed to the Complainants; it is also contended that reliance placed by the Respondent on orders relating to extension of registered projects is misplaced, as the project was not registered at the relevant point of time; and therefore, the conduct of the Respondent in proceeding with construction without valid approvals amounts to violation of statutory provisions and misrepresentation before this Hon'ble Authority, and is liable to be rejected.

73. It is further submitted that the acts and omissions of the Respondent constitute violations of the provisions of the Real Estate (Regulation and Development) Act, 2016, and in this regard it is contended that the project being an ongoing project without Completion Certificate or Occupancy Certificate ought to have been registered under the Act, and failure to do so amounts to violation of Section 3; it is further submitted that the Respondent has made false representations and assurances with regard to timely completion of the project, Pre-EMI scheme benefits and other charges, thereby attracting the provisions of Section 12 of the Act; it is also contended that the Agreement of Sale executed between the parties does not contain mandatory particulars including disclosure of carpet area, specifications and timelines, thereby violating Section 13(2) of the Act; it is further submitted that the Respondent has failed to hand over possession of the subject flat within the agreed timeline of March 2020, thereby attracting liability under Section 18 of the Act for refund or compensation; it is also contended that the rights of the Complainants as allottees, including the right to timely possession and full disclosure, have been infringed, thereby violating Section 19 of the Act; and further, the terms of the Agreement of Sale imposing penal interest upon the purchaser without corresponding liability upon the promoter are arbitrary, one-sided, and constitute an unfair trade practice opposed to public policy, and therefore the Respondent is liable for statutory and contractual violations.

74. In conclusion, the Complainants submit that the contentions raised by the Respondent in the counter are false, baseless, misleading, and untenable, and it is contended that the Respondent has attempted to divert the attention of this Hon'ble Authority by

raising unfounded allegations against the Complainants while failing to discharge its contractual and statutory obligations; it is further submitted that the Complainants have placed on record relevant facts, documents and material evidence substantiating their case; it is also contended that the Respondent has filed a fictitious and fabricated “delay charges” document with an intention to mislead this Hon’ble Authority and to unjustly shift liability upon the Complainants; and therefore, in view of the facts and circumstances of the case and the submissions made in the complaint and rejoinder, the Complainants submitted that they are entitled to appropriate reliefs under law, and this Hon’ble Authority may be pleased to reject the contentions of the Respondent, direct the Respondent to clear the Pre-EMI dues along with applicable interest and adjust/refund excess amounts collected, ensure registration and handover of the subject flat along with Occupancy Certificate, and grant appropriate compensation and costs for the delay, hardship and deficiency of service.

E. Points for Consideration:

75. Upon a careful perusal of the record and the submissions advanced by both parties, oral as well as written, this Authority is of the view that the following issues arise for determination in the present complaint:

- I. Whether the Complaint is maintainable under the provision of the RE(R&D) Act, 2016 or not?
- II. Whether the Complainant is entitled to the reliefs as prayed for? If yes, to what extent?

F. Observations of the Authority:

Point-I

76. At the outset, this Authority is constrained to address the preliminary objection raised by the Respondent with regard to the maintainability of the present complaint. The Respondent has contended that the Complainants had earlier instituted a complaint before the Telangana State Consumer Disputes Redressal Commission bearing C.C. No. 62 of 2023, and that the pendency of such proceedings before a Consumer Forum renders the present complaint before this Authority non-maintainable on grounds of res judicata. This objection warrants detailed consideration before proceeding to the merits of the dispute.

77. Upon a perusal of the material placed on record, it is noted that the Complainants, in Form-M filed before this Authority, have specifically disclosed the pendency of the Consumer Commission proceedings bearing C.C. No. 62 of 2023. There is, therefore, no suppression or misrepresentation of material facts on the part of the Complainants, as has

been alleged by the Respondent. The said objection, to that limited extent, stands repelled on facts.

78. The more substantive question, however, is whether the simultaneous pendency of proceedings before the Consumer Commission bars this Authority from exercising jurisdiction. In this regard, this Authority is guided by the authoritative pronouncement of the Hon'ble Supreme Court of India in *M/s Imperia Structures Ltd. v. Anil Patni & Another* (Civil Appeal Nos. 3581–3590 of 2020, decided on 02.11.2020), wherein the Hon'ble Apex Court categorically held that the remedies available under the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as 'the Act') are in addition to, and not in derogation of, the remedies available under the Consumer Protection Act. The Hon'ble Supreme Court further held that homebuyers are entitled to pursue concurrent or alternative remedies under the RE(R&D) Act and the Consumer Protection Act, as both statutes operate in distinct domains and confer independent rights upon aggrieved allottees.

79. The jurisdictional framework under the RE(R&D) Act is structured to confer exclusive and specialized regulatory jurisdiction upon Real Estate Regulatory Authorities in matters arising from real estate transactions and projects governed by the Act. The reliefs claimed by the Complainants in the present proceedings namely, reimbursement of Pre-EMI amounts, direction to hand over possession with Occupancy Certificate, direction to register the subject flat, disclosure of carpet area, and waiver of illegally imposed delay charges are reliefs that squarely fall within the exclusive domain of this Authority under Sections 11 and 18 of the RE(R&D) Act.

80. The doctrine of *res judicata*, as enshrined under Section 11 of the Code of Civil Procedure, 1908, applies where there is a final decision on the same matter in issue between the same parties by a competent court. In the present case, no final order has been passed by the Consumer Commission in C.C. No. 62 of 2023, and the said proceedings are stated to be pending. A pending proceeding before another forum cannot, by itself, operate as a bar to the exercise of jurisdiction by this Authority, particularly when the reliefs sought before this Authority are grounded in the statutory provisions of the RE(R&D) Act and are cognizable by it. To hold otherwise would be to deprive allottees of a specialized statutory remedy expressly created in their interest.

81. In view of the foregoing, this Authority holds that the present complaint is maintainable and that this Authority is vested with jurisdiction to adjudicate the reliefs sought herein. The preliminary objection of the Respondent is accordingly overruled.

Point 2: Whether the complainant is entitled to relief(s) sought:

(a) RERA Registration

82. The first grievance of the Complainants relates to the failure of the Respondent to register the project 'Aditya Capitol Heights' under the Act. The Respondent has sought to justify its non-compliance on the ground that building permissions were obtained prior to 01.01.2017 and thus the project was excluded from the definition of 'ongoing project' under Section 2(1)(j) of the Telangana Real Estate (Regulation and Development) Rules, 2017.

83. This Authority notes that the said issue of registration of the project 'Aditya Capitol Heights' was the subject matter of suo motu proceedings initiated by this Authority in Case No. D6/3163/TGRERA. In those proceedings, upon due consideration of the Respondent's explanation and reply, this Authority returned a categorical finding that the said project constitutes an 'ongoing project' within the meaning of the RE(R&D) Act and directed the Respondent Promoter to apply for registration under Section 4 of the RE(R&D) Act. The said finding having attained finality in the context of the said proceedings, this Authority is not required to reopen or re-examine the same question in the present complaint. The direction issued by this Authority in suo motu proceedings therefore stands affirmed. The Respondent is bound to comply with the said direction.

84. The central and most contested issue in the present complaint pertains to the Pre-EMI Scheme under which the Complainants had booked the subject flat. It is the Complainants' case that the Respondent had undertaken, under Clause 5 of the Agreement of Sale dated 25.04.2017, to bear the Pre-EMI payments i.e., the interest component of the housing loan until the stage of completion and intimation of the flat, and that the Respondent has wrongfully discontinued this obligation, causing severe financial hardship. The Respondent, on the other hand, contends that the Complainants stood disqualified from the scheme on account of persistent and inordinate delays in making payments towards the sale consideration, and that the Complainants were accordingly converted to a standard payment scheme.

85. This Authority has carefully examined the material placed on record including the Agreement of Sale dated 25.04.2017, the Flat Booking Letter dated 16.02.2017, the stage-wise payment schedule, the actual payment history, the correspondence exchanged between the parties, and the submissions advanced on both sides.

86 The core questions that arise for determination in this regard are:

- i. *Whether the Complainants fulfilled the eligibility conditions under the Pre-EMI Scheme;*
- ii. *Whether the alleged delays in payment by the Complainants justified the Respondent's decision to discontinue the Pre-EMI benefit; and*
- iii. *Whether the Respondent is entitled to impose delay charges upon the Complainants during the period when the Respondent itself had failed to honour the Pre-EMI obligation.*

(b) Eligibility under the Pre-EMI Scheme

87. The Respondent has contended that eligibility under the Pre-EMI Scheme was conditional upon: (a) submission of home loan documents within 10 days of the Flat Booking Letter; (b) payment of the 10% booking advance within 7 days; and (c) disbursement of 85% of the flat cost in a lump sum by the bank. It is the Respondent's case that the Complainants defaulted on all three preconditions and were therefore never eligible for the scheme's benefits.

88. This Authority finds that the Respondent's contentions, even if accepted at face value for the sake of argument, are fatally undermined by the Respondent's own conduct. It is an admitted position indeed, it is not disputed by either party that the Respondent executed the Agreement of Sale with the Complainants on 25.04.2017, incorporated the Pre-EMI Scheme in Clause 5 thereof, and actually paid Pre-EMI amounts for a continuous period of approximately nine months, from 01.05.2017 to 17.02.2018, aggregating to Rs. 1,99,000/-. This conduct constitutes a clear, unambiguous, and affirmative recognition by the Respondent that the Complainants were eligible under, and governed by, the Pre-EMI Scheme at the relevant point in time.

89. It is a well-established principle of contract law that a party who has elected to treat a contract as subsisting and has acted upon it cannot subsequently turn around and contend that the contract or its terms were never operative. Having accepted the Complainants under the scheme, executed the Agreement of Sale incorporating its terms, and made actual Pre-EMI payments thereunder, the Respondent is estopped from now asserting that the Complainants were never eligible for the scheme. The plea of retrospective disqualification

raised by the Respondent is accordingly rejected as contrary to law and inconsistent with the Respondent's own conduct.

90. Furthermore, upon perusal of the Agreement of Sale and the Flat Booking Letter, this Authority finds that there is no express clause stipulating that 85% of the sale consideration must be disbursed in a single lump sum as a precondition for availing the Pre-EMI benefit. The document merely records the broad structure of the payment scheme 10% booking advance, 85% through housing loan, 5% at the time of possession. The Respondent's interpretation that these percentages constituted mandatory lump-sum preconditions appears to be an afterthought introduced for the first time in these proceedings and is not supported by the plain text of the Agreement.

91. This Authority therefore holds that the Complainants substantially fulfilled the foundational eligibility criteria under the Pre-EMI Scheme, and that the Respondent's challenge to their eligibility is not sustainable.

(c) Whether Delays in Payment Justified Discontinuation of Pre-EMI

92. The Respondent's primary justification for discontinuing the Pre-EMI payments is that the Complainants caused inordinate delays in discharging stage-wise payment obligations, thereby forfeiting their entitlement under the scheme. In order to assess the validity of this contention, this Authority has examined the payment history vis-à-vis the stage-wise construction milestones.

93. A review of the record reveals the following:

- a) The demand corresponding to the 4th Slab Stage was raised by the Respondent on 19.05.2017 for Rs. 30,81,400/-. The Complainants, however, had already made a payment of Rs. 30,42,335/- on 26.04.2017 i.e., nearly one month before the said demand was raised. This payment was in advance of the corresponding construction stage demand.
- b) The Complainants made further disbursements through their lending bank on 09.07.2018 (Rs. 7,97,375/-), on 17.03.2020 (Rs. 7,10,000/-), and on 26.08.2022 (Rs. 5,20,290/-), each corresponding broadly to the stage-wise progress of the project as communicated by the Respondent.
- c) In total, the Complainants paid an amount of approximately Rs. 59,40,000/- out of the total sale consideration of Rs. 76,03,500/-, constituting approximately 78% to

80% of the total consideration, across multiple tranches and broadly in alignment with construction progress.

94. The above payment pattern demonstrates that the Complainants were not wilful or habitual defaulters during the substantial phase of the project. On the contrary, they appear to have made payments, in several instances, even in advance of the corresponding construction milestones. This pattern is particularly significant in the context of a Pre-EMI scheme, which by its very nature is structured to incentivize and reward purchasers who make timely and advance payments.

95. The Respondent's decision to discontinue Pre-EMI payments was communicated to the Complainants through an email dated 20.12.2019. It is significant to note that by this date, the Respondent had already received approximately 65% to 70% of the total sale consideration and had failed to achieve the construction milestones that corresponded to those payments. The Respondent's contention that the Complainants' delays in payment justified withdrawal of the Pre-EMI benefit, at a time when the Respondent itself was in breach of its construction obligations, does not stand scrutiny.

96. It is a fundamental principle that a party cannot claim the benefit of a contractual condition while simultaneously being in breach of its own obligations under the same contract. The Agreement of Sale, as per the material available on record, did not specify any date of delivery of possession, nor did it incorporate any penalty clause operating against the Respondent in the event of delay in completion. The GHMC building permission obtained by the Respondent in March 2015 stipulated completion of construction on or before 18.03.2020. Admittedly, the project was not completed by that date, and even as on the date of the present order, the Occupancy Certificate has not been obtained. A promoter who has himself failed to complete the project within the approved timeline, and who has collected substantial amounts from the allottee substantially in advance of construction progress, cannot equitably be heard to contend that the allottee is in default.

97. This Authority is therefore of the considered view that the Respondent was not justified in discontinuing the Pre-EMI payments for the period during which the Complainants had substantially and demonstrably complied with their payment obligations. The Respondent's discontinuation of Pre-EMI after February 2018 despite receiving nearly

50% to 68% of the total sale consideration by that time constitutes a breach of Clause 5 of the Agreement of Sale and non-adherence of section 11(4)(a) of RE(R&D) Act.

(d) Position from 26.08.2022 Onwards

98. The last payment made by the Complainants towards the sale consideration was on 26.08.2022, being a disbursement of Rs. 5,20,290/- by the lending bank. It is an admitted position that after this date, no further payments have been made by the Complainants towards the outstanding balance of the sale consideration, statutory dues, or GST. The Complainants have contended that the stoppage of payments was caused by the non-payment of Pre-EMI dues by the Respondent, as a result of which the lending bank declined to make further disbursements, and that the Respondent's failure to complete the project and obtain the Occupancy Certificate made it commercially and practically impossible for them to discharge the balance obligation.

99. This Authority acknowledges that the Complainants' decision to withhold further payments was understandable in the context of the Respondent's failure to honour the Pre-EMI obligation and the slow pace of construction. However, the obligation of an allottee to pay the balance sale consideration in accordance with the construction stage milestones is a contractual and statutory obligation under Section 19(6) of the RE(R&D) Act. That provision reads:

"Every allottee, who has entered into an agreement for sale to take an apartment, plot or building as the case may be, under Section 13, shall be responsible to make necessary payments in the manner and within the time as specified in the said agreement for sale and shall pay at the proper time and place, the share of the registration charges, municipal taxes, water and electricity charges, maintenance charges, ground rent, and other charges, if any."

100. The said statutory obligation is not extinguished merely by reason of the Respondent's breach of the Pre-EMI obligation. The proper course for the Complainants, having a claim against the Respondent for unpaid Pre-EMI dues, was to seek adjudication before this Authority as they have indeed done and not to unilaterally cease all further payments towards the sale consideration. In the circumstances, the Complainants' failure to pay the balance sale consideration after 26.08.2022, despite the Respondent issuing demand notices corresponding to construction stage milestones, must be held against them for the purposes of any further interest claim.

101. Accordingly, this Authority holds that the Respondent is liable to reimburse the Pre-EMI amounts up to 26.08.2022 and the Complainants are not entitled to claim Pre-EMI interest from the Respondent for any period after 26.08.2022, being a period during which the Complainants themselves were in default of their payment obligations and further that the Respondent shall be entitled, under Section 19(6) of the RE(R&D) Act, to claim interest on delayed payments from the Complainants, but only for the period commencing from 27.08.2022 onwards and only in respect of the balance sale consideration outstanding as on that date, strictly subject to the Respondent substantiating, through credible documentary evidence, that the corresponding construction milestones had been achieved and the relevant demands were validly raised.

102. The Respondent has sought to impose delay charges upon the Complainants under Clause 6 of the Agreement of Sale, which provides for penal interest at 18% per annum for delays up to 30 days and 24% per annum for delays beyond 30 days. The Respondent claims that delay charges totalling Rs. 22,53,087/- are payable by the Complainants.

103. This Authority has carefully examined Clause 6 alongside the broader framework of the Agreement of Sale and finds that the said clause is conspicuously one-sided in its operation. While the Agreement prescribes steep penal interest at 18% to 24% per annum against the purchaser for delays in payment, it contains no corresponding clause imposing any obligation, penalty, or compensation upon the Promoter in the event of delay in completion of the project or failure to hand over possession by the agreed date. Indeed, the Agreement of Sale does not even specify a definite date for handing over possession of the flat a requirement that is now mandated under Section 13(2) of the RE(R&D) Act.

104. The legislative intent underlying the RE(R&D) Act was, inter alia, to address and correct precisely such asymmetric and one-sided contractual arrangements that historically operated to the detriment of allottees. An agreement that imposes penal interest on the purchaser while simultaneously exempting the promoter from any liability for delay in completion cannot be said to represent a fair and equitable bargain. This Authority holds that a promoter who is in breach of his own primary obligation i.e., timely completion and delivery of the project cannot seek to enforce a penal clause against the allottee for delays in payments that are themselves a consequence of or linked to the promoter's breach.

105. In any event, this Authority has already found, upon examination of the payment history, that the Complainants made payments substantially in alignment with, and often in

advance of, the stage-wise construction demands raised by the Respondent for the period up to 26.08.2022. The imposition of delay charges by the Respondent for this period, including the delay charges statement that this Authority finds to be inconsistent with the actual payment record, is accordingly unsustainable.

106. Accordingly, it is directed that all delay charges, penal interest, or other penalties purportedly levied by the Respondent upon the Complainants for the period prior to 26.08.2022 shall stand withdrawn and shall not be recoverable. The Respondent is restrained from demanding, enforcing, or threatening enforcement of any such charges for the said period.

107. It has emerged during the course of the proceedings that the Respondent, while simultaneously seeking time before this Authority for amicable settlement across multiple hearing dates, issued a unilateral cancellation letter dated 18.07.2025 purporting to cancel the allotment of the subject flat with effect from 15.07.2025, invoking Clause 7 of the Agreement of Sale. The Complainants have contended that this cancellation letter was never served upon them and was brought to their notice only through the counter affidavit filed in the present proceedings. The Respondent has, however, placed on record copies of multiple reminder letters and emails issued prior to the cancellation, asserting that the Complainants were duly notified.

108. This Authority notes, with considerable displeasure, that the Respondent chose to issue a cancellation letter and purport to extinguish the rights of the Complainants at a stage when the present complaint was pending sub judice before this Authority, the rights and liabilities of the parties were actively under adjudication, and the Respondent itself was engaged in representations before this Authority regarding possible settlement. Such conduct pursuing settlement negotiations on one hand while simultaneously executing unilateral cancellation on the other is inconsistent with the principles of bona fide conduct expected of a promoter and is contrary to the spirit of the RE(R&D) Act.

109. Moreover, as this Authority has held above, the Respondent is itself in breach of its obligations under the Agreement of Sale and the RE(R&D) Act having failed to complete the project by the approved timeline, failed to obtain the Occupancy Certificate, and failed to honour the Pre-EMI obligation. A party that is in material breach of its own obligations cannot invoke a forfeiture or cancellation clause against the other party, particularly when the other party's non-payment is at least partly attributable to the promoter's own default.

110. In view of the foregoing, the purported cancellation of the allotment of Flat No. 906-A vide letter dated 18.07.2025 is held to be arbitrary, illegal, void ab initio, and of no legal effect. The allotment shall continue to subsist and be governed by the Agreement of Sale dated 25.04.2017 as modified by the findings and directions in this order.

111. The Complainants have contended that the Agreement of Sale does not disclose the carpet area of the subject apartment as required under Section 13(2) read with Section 2(k) of the RE(R&D) Act. The Respondent has asserted that the area description was based on mutual discussion and was in terms of super built-up area 'including common areas.'

112. Upon perusal of the Agreement of Sale dated 25.04.2017, this Authority finds that the apartment is described as admeasuring '1610 Sq. Ft. including common areas', which is plainly a description on the basis of super built-up area. The Agreement does not independently specify the net usable carpet area of the apartment as defined under Section 2(k) of the RE(R&D) Act.

113. Section 2(k) of the RE(R&D) Act defines 'carpet area' to mean the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area. The RE(R&D) Act mandates that the carpet area, as so defined, must be expressly disclosed in the agreement for sale. The sale of apartments on the basis of super built-up area, without independent disclosure of carpet area, was one of the opacity and information asymmetry problems that the RE(R&D) Act was expressly enacted to address.

114. The Respondent's assertion that the description was based on mutual discussion does not satisfy the statutory requirement. The RE(R&D) Act creates a mandatory statutory obligation of disclosure that cannot be waived or overridden by contractual agreement or purported mutual consent. The generalized assertion that both parties agreed to a super built-up area description does not constitute compliance with Section 13(2) of the RE(R&D) Act.

115. Accordingly, the Respondent is directed to forthwith communicate to the Complainants the specific carpet area of Flat No. 906-A as defined under Section 2(k) of the RE(R&D) Act, and to ensure that all future agreements in respect of its projects comply with the mandatory disclosure norms prescribed under the RE(R&D) Act.

116. The Complainants have contended that the compound wall of the project has been drawn closer to the building structure on account of road widening by GHMC, which may

have resulted in a reduction of the proportionate Undivided Share of Land (UDS) corresponding to the subject flat. The Complainants have requested disclosure of the revised UDS.

117. This Authority has examined the material placed on record in this regard. No documentary, technical, or survey evidence has been produced by the Complainants to establish any actual alteration, reduction, or encroachment upon the UDS allotted to them. In the absence of cogent material evidence, this Authority is unable to return a specific finding of violation at this stage.

118. However, it is reiterated that it is the statutory and contractual obligation of the Respondent to convey and register the agreed proportionate UDS corresponding to the apartment at the time of execution of the sale deed. In the event that any demonstrable reduction in the agreed UDS is established at the time of conveyance, the Respondent shall be liable to rectify the same in accordance with the law.

119. The Complainants have claimed interest at 24% per annum on the alleged Pre-EMI dues of Rs. 30,41,178/- as well as on excess amounts stated to have been collected by the Respondent. With respect to the claim for Pre-EMI dues, this Authority has already directed the Respondent to reimburse the Pre-EMI amounts actually paid by the Complainants up to 26.08.2022. With regard to the rate of interest, this Authority notes that while the Complainants have claimed interest at 24% which is the rate stipulated in the Agreement for defaults by the purchaser the appropriate rate of interest in cases of default by the promoter under the RE(R&D) Act is the prevailing MCLR rate of the State Bank of India plus 2%, as provided under the Act and Rules.

120. With respect to the Complainants' claim for interest on the Pre-EMI dues, this Authority is constrained to observe that neither the Agreement of Sale dated 25.04.2017 nor the terms of the Pre-EMI Scheme contain any express stipulation entitling the Complainants to interest in the event of the Respondent's failure to honour the Pre-EMI obligation. The Agreement is, as has been noted above, conspicuously silent on the consequences of the Respondent's default under the Pre-EMI arrangement.

121. This Authority has also examined whether the provisions of the Real Estate (Regulation and Development) Act, 2016 independently confer any entitlement to such interest. Section 18 of the RE(R&D) Act, which is the primary provision governing the rights of allottees in the event of a promoter's default, operates in two distinct situations:

first, where the promoter fails to complete or is unable to give possession of an apartment by the date specified in the agreement for sale, in which case the promoter is liable to pay interest to the allottee for every month of delay, and second, where, by reason of the promoter's default, the allottee wishes to withdraw from the project, in which case the promoter is liable to refund the amount paid along with interest. The jurisdiction of this Authority to direct payment of interest to an allottee, therefore, is expressly anchored to the statutory framework under Section 18 and flows from a promoter's failure in relation to possession obligations and not from the breach of any collateral contractual benefit such as a Pre-EMI scheme.

122. Since no provision under the RE(R&D) Act, and no clause in the Agreement of Sale, provides for the payment of interest on unpaid Pre-EMI dues as a distinct and enforceable head of relief, this Authority is not in a position to grant such interest. The prayer for interest on Pre-EMI dues is accordingly dismissed. The Respondent remains liable only to reimburse the principal Pre-EMI amounts actually paid by the Complainants up to 26.08.2022, as directed above, without any addition of interest thereon.

123. The Respondent has asserted in its counter that the project has been substantially completed, that an application for Occupancy Certificate has been submitted, and that the subject flat is ready for handing over. However, the Complainants have disputed this position, contending that several internal works and amenities remain incomplete.

124. Further, the Respondent is directed to register the subject flat in favour of the Complainants without any undue delay, upon compliance with the financial obligations as crystallized in this order including the mutual adjustment of Pre-EMI dues payable by the Respondent against any balance sale consideration payable by the Complainants and upon receipt of the Occupancy Certificate.

G. Directions of the Authority:

125. In light of the observations and conclusions set out above, this Authority, in exercise of the powers conferred under Sections 37 and 38 of the Real Estate (Regulation and Development) Act, 2016, issues the following directions to the Respondent:

- a) The Respondent shall reimburse the Pre-EMI amounts actually paid by the Complainants up to and including 26.08.2022 within a period of 40 days from the date of this order.

- b) The amounts payable by the Respondent towards reimbursement of Pre-EMI, as directed herein, shall be mutually adjusted against the balance sale consideration payable by the Complainants, and only the net payable amount, if any, shall be required to be paid by either party at the time of execution and registration of the Sale Deed
- c) The Respondent shall forthwith withdraw all delay charges, penal interest, and other penalties purportedly levied upon the Complainants, including any charges calculated at the rates of 18% or 24% per annum as stipulated under Clause 6 of the Agreement of Sale.
- d) The Respondent shall be entitled to claim interest on delayed payments under Section 19(6) of the RE(R&D) Act only for the period commencing from 27.08.2022, in respect of the balance sale consideration. It is hereby clarified that the Agreement of Sale, insofar as it prescribes penal interest at rates of 18% to 24% per annum against the allottee without any corresponding obligation upon the Promoter, is one-sided and contrary to the spirit and scheme of the RE(R&D) Act. The Respondent shall not be entitled to levy or recover interest on delayed payments from the Complainants at any rate exceeding the rate prescribed under the RE(R&D) Act and the TG RE(R&D) Rules made thereunder being the prevailing Marginal Cost of Lending Rate (MCLR) of the State Bank of India plus 2% per annum and any demand, notice, or statement of outstanding dues reflecting charges in excess of the said prescribed rate shall be of no legal effect and is hereby set aside. The Respondent is directed to issue a fresh and accurate statement of outstanding dues to the Complainants, computed strictly in accordance with the applicable rate under the RE(R&D) Act & TG RE(R&D) Rules, 2017, for the period commencing from 27.08.2022 onwards in respect of the balance sale consideration only.
- e) The purported cancellation of the allotment of Flat No. 906-A vide letter dated 18.07.2025 stands cancelled and the allotment shall be treated as subsisting.
- f) The Respondent shall forthwith disclose to the Complainants the carpet area of Flat No. 906-A as defined under Section 2(k) of the RE(R&D) Act, together with the current Undivided Share of Land proportionate to the said flat.
- g) The Respondent shall expeditiously complete all pending works, obtain the Occupancy Certificate from the competent authority, and hand over possession

of the subject flat along with all committed amenities. The Respondent shall register the flat in favour of the Complainant without undue delay upon receipt of the balance sale consideration.

126. Failure to comply with any of the above directions shall attract penalty in accordance with Section 63 of the Real Estate (Regulation and Development) Act, 2016.

127. The complaint is disposed of accordingly. There shall be no order as to costs.

Sd/-
Sri. K. Srinivas Rao,
Hon'ble Member
TG RERA

Sd/-
Sri. Laxmi NaryanaJannu,
Hon'ble Member
TG RERA

Sd/-
Dr. N. Satyanarayana, IAS (Retd.),
Hon'ble Chairperson
TG RERA

